

ASSEMBLY, No. 3413

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

Requires State agencies, when developing and proposing rules, to utilize approaches that will accomplish objectives of statutory law while minimizing adverse economic impact on municipalities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning State mandates on municipalities and amending
2 P.L.2001, c.342.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 13 of P.L.2001, c.342 (C.52:14B-25) is amended to
8 read as follows:

9 13. a. For the purposes of this section:

10 "State mandate" means a program, service or activity that is to be
11 performed or implemented by a local unit for or on behalf of its
12 residents, which results in an added net cost to the local unit, and
13 which is mandated in any statute enacted by the Legislature either
14 prior to or after the effective date of **【this act】** P.L.2001, c.342. A
15 "state mandated program" shall not include the following: any
16 activity pertaining to a statute carrying criminal penalties; any
17 mandate required by or arising from a court order or judgment; any
18 program or service which is provided at local option under
19 permissive State laws, rules, regulations or orders; any program
20 which is required by private, special or local laws pursuant to
21 Article IV, Section VII, paragraphs 8 and 10 of the State
22 Constitution; any program required by or arising from an executive
23 order of the Governor in exercising emergency powers granted by
24 law; or any program mandated by federal law, rule, regulation or
25 order.

26 **【"Small municipality" shall mean a municipality that has a**
27 **limited population or geographic area according to criteria**
28 **promulgated by the Director of the Division of Local Government**
29 **Services in the Department of Community Affairs.】**

30 b. In developing and proposing a rule for adoption, the agency
31 involved shall utilize approaches which will accomplish the
32 objectives of applicable statutes while minimizing any adverse
33 economic impact of the proposed rule on **【small】** municipalities.
34 Consistent with the objectives of applicable statutes, the agency
35 shall utilize such approaches as:

36 (1) The establishment of differing compliance or reporting
37 requirements or timetables that take into account the resources
38 available to **【small】** municipalities;

39 (2) The use of performance rather than design standards; and

40 (3) An exemption from coverage by the rule, or by any part
41 thereof, for **【small】** municipalities so long as the public health,
42 safety, or general welfare is not endangered, or if an exemption is
43 not a possibility, the use of alternative methods of implementing the
44 requirements of the rule.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 c In proposing a rule for adoption, the agency involved shall
2 issue a State mandate flexibility analysis regarding the rule, which
3 shall be included in the notice of a proposed rule as required by
4 subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4). Each
5 State mandate flexibility analysis shall contain:

6 (1) An estimate of the number of **【small】** municipalities to
7 which the proposed rule will apply;

8 (2) A description of the reporting, record-keeping and other
9 compliance requirements being proposed for adoption, and the
10 kinds of professional services that a **【small】** municipality is likely
11 to need in order to comply with the requirements;

12 (3) An estimate of the annual cost to a **【small】** municipality of
13 complying with the rule; and

14 (4) An indication of how the rule, as proposed for adoption, is
15 designed to minimize any adverse economic impact of the proposed
16 rule on **【small】** municipalities.

17 d. This section shall not apply to any proposed rule which the
18 agency finds would not impose reporting, record-keeping, or other
19 compliance requirements on **【small】** municipalities. The agency's
20 finding and an indication of the basis for its finding shall be
21 included in the notice of a proposed rule as required by subsection
22 (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).

23 e. In order to avoid duplicative action, an agency may consider
24 a series of closely related rules as one rule for the purposes of
25 complying with the requirements of this section.

26 f. In complying with the provisions of this section, an agency
27 may provide either a quantifiable or numerical description of the
28 effects of a proposed rule or more general descriptive statements, if
29 quantification is not practicable or reliable.

30 (cf: P.L.2001, c.342, s.13)

31
32 2. This act shall take effect immediately.

33 34 35 STATEMENT

36
37 This bill would require State agencies, when developing and
38 proposing a rule for adoption, to utilize approaches that will
39 accomplish the objectives of statutory law while minimizing any
40 adverse economic impact of the proposed rule on municipalities.

41 Current law, enacted as part of P.L.2001, c.342 (the last of a
42 series of “mandate relief” bills enacted during the 1990’s and the
43 early 2000’s that provided relief from State mandates on
44 municipalities, counties, and boards of education) requires State
45 agencies, when developing and proposing a rule for adoption, to
46 utilize approaches that will accomplish the objectives of statutory

1 law while minimizing any adverse economic impact of the proposed
2 rule on small municipalities.

3 This bill would amend P.L.2001, c.342 to remove the adjective
4 “small” from the law so that the requirements of the statute would
5 apply to the development and adoption of rules that would affect *all*
6 municipalities.

7 The sponsor believes that, given the recent enactment of
8 statutory law restricting the school district, county, and municipal
9 property tax levy cap from 4% to 2.0%, municipal budgets will be
10 hard-pressed to fund the implementation of any State mandate that
11 requires the expenditure of local funds, and the provisions of this bill
12 will require State government to more carefully consider the effect of a
13 proposed rule on local budgets, and to utilize approaches or methods
14 that will accomplish the objectives of statutory law and at the same
15 time, minimize any adverse economic impact of the proposed rule
16 on municipalities.